

SENATE BILL 7
By Bryson

AN ACT to amend Tennessee Code Annotated, Title 10, Chapter 7, Part 5 and Title 38, Chapter 7, relative to autopsies.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 7, Part 1, is amended by adding the following as a new section:

§ 38-7-119.

(a) Notwithstanding any other provision of law to the contrary, photographs, video, or other visual images, or audio recordings in whatever form, of or relating to an autopsy conducted under the authority of the office of the coroner or medical examiner shall be confidential, are deemed not to be public records, and shall not be released or reproduced by the office of the coroner or medical examiner, or any officer, employee, or agent thereof, except as otherwise provided in this section.

(b) Nothing in this section shall prevent the release or reproduction of autopsy photographs, video, or other visual images, in whatever form, of or relating to an autopsy conducted under the authority of the office of the coroner or medical examiner as follows:

(1) To the next of kin of the deceased. The deceased's next of kin shall

be:

(A) The spouse of the deceased, if living;

(B) If there is no living spouse, an adult child of the deceased;

(C) If there is no living spouse or adult child, a parent of the deceased;

(D) If there is no living spouse, adult child, or parent, a sibling of the deceased;

(E) If there is no living spouse, adult child, parent, or sibling of the deceased, a grandparent of the deceased;

(F) If none of the above are living, an uncle or aunt of the deceased; or

(G) If none of the above are living, a first cousin of the deceased.

(2) To the succession representative of the deceased's estate, or such representative's designee;

(3) To a law enforcement agency, for official use only; or

(4) As directed by a court order or subpoena.

(c) A court may, in closed criminal investigations, order the disclosure of such materials upon a finding in writing that disclosure is in the public interest and that it outweighs any privacy interest that may be asserted by the deceased's next of kin. In any such action, the court shall review the photographs in question in camera and may condition any disclosure on such measures as the court may deem necessary to accommodate the interests of the parties before it.

(d) A surviving spouse or next of kin shall be given:

(1) Reasonable notice of the petition filed with the court to view or copy photographs, video, or other visual images or audio recordings, in whatever form of an autopsy;

(2) A copy of the petition filed with the court to view or copy photographs, video, or other visual images or audio recordings, in whatever form, of an autopsy; and

(3) Reasonable notice of the opportunity to be present and heard at any hearing on the matter.

(e) If there is no surviving spouse, the notice under this section must be given to the deceased's next of kin as defined in subdivision (b)(1).

(f) Nothing in this section shall prevent the inspection of or reproduction of photographs, video, or other visual images, or audio recordings in whatever form, of or relating to an autopsy by the surviving spouse or next of kin, the succession representative of the deceased's estate, that representative's designee, a law enforcement agency for official use only, or as directed by a court order or subpoena.

(g) To the extent that a coroner or medical examiner is a covered entity under the privacy regulations promulgated pursuant to the federal Health Insurance Portability and Accountability Act of 1996, nothing in this act shall be construed to preempt any provisions of those regulations that provide greater protection of the deceased's privacy than does this act.

SECTION 2. Tennessee Code Annotated, Section 10-7-504(a), is amended by inserting the following new subdivision, to be designated as follows:

(22) Autopsy records shall be treated as confidential as provided in § 38-7-119.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.